

General Information. Individuals are not entitled to net loss carryforwards under IITA Section 207.

February 23, 1999

Dear:

This is in response to your letter dated February 19, 1999. Given the nature of your inquiry and the information you provide, I am again responding with a General Information Letter. This is not to be taken as a statement of Department policy nor as a binding ruling by the Department. As general information gathered in response to your particular questions, however, I hope that it is helpful to you.

In your letter you have stated the following:

Thank you for you January 5, 1999 letter concerning the loss carryforward in my 1996 Illinois return.

Initially, please explain the significance of your letter being a "general information letter" v. a statement of Department policy not being binding on your Department.

Secondly, the statute quoted by you precludes "modification on limitations" on the amounts taken into account for Federal purposes.

We are not limiting this amount. We are simply taking into account an amount which was irrelevant for Federal purposes.

Finally, the statute quoted by you suggests it is relevant simply to determining property value and not necessarily income taxes.

Accordingly, the carryover loss seems appropriate and should be permitted.

#### Response

Please accept my sincere apology for not being clear in my previous letter to you. It was not my intention to obscure the reality of your situation, which is that you owe legally assessed taxes to the State of Illinois and, because you seem unwilling to pay them, you may soon become subject to collection measures, such as attachment of bank accounts and garnishment of income.

To respond to your particular questions, a general information letter is designed to provide information on the tax law. It does not amount to a ruling by the government. It is not an official pronouncement that can, by itself, be enforced in the courts, either by the Department or by the addressee. That being said, a general information letter is rigorously reviewed by senior attorneys and does reflect the state of the law.

Your other questions were about the meaning of the quoted statutory language in my previous letter. I appreciate the fact that tax statutes often contain words and phrases that seem to divert focus. Section 203(h) of the Illinois Income Tax Act is about income tax. It is a subparagraph of the section that sets down the types of subtractions you may take from the base income amount. It says that the

only subtractions permitted are those enumerated. The loss that you wish to subtract is not one of those enumerated subtractions.

Finally, when Section 203(h) says, "whether in respect of property values as of August 1, 1969 or otherwise," it refers to a common claim made by early opponents of the state income tax, that dollar values on August 1, 1969 (the effective date of the income tax law) should be used as the measure of the real value of income for taxation purposes. It does not mean that the section is about property tax.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the previously enclosed copy of Section 1200.110(b).

Sincerely,

Kent R. Steinkamp  
Staff Attorney -- Income Tax